

Statement of

The Honorable Patrick Leahy

United States Senator
Vermont
October 24, 2007

Statement of Senator Patrick Leahy,
Chairman, Senate Judiciary Committee
Hearing on "The Role of Federally-Funded University Research
in the Patent System"
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Universities conduct much of the research that advances our understanding of the world around us; since the passage of the Bayh-Dole Act in 1980, they have played an increasingly important role in the patent system and commercializing innovation.

Under Bayh-Dole, universities may take title to inventions developed with federal funds, and they can retain all the profits from licensing those inventions, without reimbursing the Government. There is one exception to this rule: when the university's work is being done in a facility that is actually owned by the federal government, the university must return a portion of the royalties from the invention, when those royalties exceed 5 percent of the facility's budget.

Iowa State University operates such a federal facility, Ames Laboratory. Through its ingenuity and successful commercialization, Ames Laboratory last year exceeded the 5 percent royalty mark and, as a result, repaid the taxpayers nearly \$1 million, becoming the first such facility to do so. At the close of the last Congress, the House had hoped to raise the threshold to 15 percent, so that Iowa State would not have had to make any reimbursement. The bill was introduced on December 8th and passed December 9th. I said at the time that regardless of whether the most appropriate threshold is 5 percent or 15 percent, we should not be changing the law at the 11th hour without process.

Process is important; it illuminates and clarifies the implications of a substantive change in the law as it currently stands. This hearing will provide such process, and also gives the Committee a long-overdue opportunity to begin an examination of the successes, as well as any shortcomings, of the tech transfer provisions of Bayh-Dole in general.

American research universities are the envy of the world. Patented inventions developed at universities with federal dollars have created businesses and jobs, and boosted local economies. Perhaps most importantly, medicines developed based on this research have saved lives. Federal taxpayers fund more than 60 percent of research at universities, however, and it is proper to ask whether the taxpayer is receiving an adequate return.

At the end of the 109th Congress, I introduced the Public Research in the Public Interest Act to ensure that medical product innovations created with federal funds were available in developing countries at the lowest possible cost. I anticipate that legislation, and this hearing, will spark a responsible debate in this Congress about the rights that taxpayers should retain in inventions for which they act as venture capitalists.

I look forward to the testimony of our witnesses today.

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